



February 16, 2007

SENATE BILL No. 65

DIGEST OF SB 65 (Updated February 14, 2007 2:13 pm - DI 106)

Citations Affected: IC 12-7; IC 12-18; IC 31-9; IC 34-6; IC 35-41; IC 35-42; noncode.

Synopsis: Amends the definition of "family or household member" in IC 35-41-1-10.6 to include (1) a person who lives or formerly lived in the same household as the other person or (2) is the present spouse of a former spouse of the other person. Amends definition of domestic battery to provide that the offense is committed if the prohibited behavior results in the bodily injury of a family or household member of the person engaging in the behavior. Makes conforming amendments.

Effective: July 1, 2007.

Hershman

January 8, 2007, read first time and referred to Committee on Rules and Legislative Procedure.

February 6, 2007, amended; reassigned to Committee on Corrections, Criminal, and Civil Matters.

February 15, 2007, reported favorably — Do Pass.

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SB 65—LS 6279/DI 13+



February 16, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 65

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-82.2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 82.2. "Family or
3 household member", for purposes of IC 12-18-8, has the meaning set
4 forth in ~~IC 12-18-8-3~~. **IC 35-41-1-10.6.**
- 5 SECTION 2. IC 12-18-8-3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) As used in this
7 chapter, an individual is a "family or household member" of another
8 person if the individual:
- 9 (1) is a current or former spouse of the other person;
 - 10 (2) is dating or has dated the other person;
 - 11 (3) is or was engaged in a sexual relationship with the other
 - 12 person;
 - 13 (4) is related by blood or adoption to the other person;
 - 14 (5) is or was related by marriage to the other person;
 - 15 (6) cohabits or formerly cohabited with the other person; or
 - 16 (7) has or previously had an established legal relationship:
 - 17 (A) as a guardian of the other person;

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- (B) as a ward of the other person;
- (C) as a custodian of the other person;
- (D) as a foster parent of the other person; or
- (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D);

(b) As used in this chapter, an individual is a "family or household member" of both persons to whom subsection (a)(1); (a)(2); (a)(3); (a)(4); (a)(5); (a)(6); or (a)(7) applies if the individual is a minor child of one (1) of the persons: **has the meaning set forth in IC 35-41-1-10.6.**

SECTION 3. IC 31-9-2-44.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 44.5. (a) An individual is a "Family or household member" of another person if the individual:

- (1) is a current or former spouse of the other person;
- (2) is dating or has dated the other person;
- (3) is engaged or was engaged in a sexual relationship with the other person;
- (4) is related by blood or adoption to the other person;
- (5) is or was related by marriage to the other person;
- (6) has or previously had an established legal relationship:

- (A) as a guardian of the other person;
- (B) as a ward of the other person;
- (C) as a custodian of the other person;
- (D) as a foster parent of the other person; or
- (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D); or
- (7) has a child in common with the other person.

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1); (a)(2); (a)(3); (a)(4); (a)(5); (a)(6); or (a)(7) applies if the individual is a minor child of one (1) of the persons: **has the meaning set forth in IC 35-41-1-10.6.**

SECTION 4. IC 34-6-2-44.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 44.8. (a) An individual is a "Family or household member" of another person if the individual:

- (1) is a current or former spouse of the other person;
- (2) is dating or has dated the other person;
- (3) is engaged or was engaged in a sexual relationship with the other person;
- (4) is related by blood or adoption to the other person;
- (5) is or was related by marriage to the other person;
- (6) has or previously had an established legal relationship:

- (A) as a guardian of the other person;

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- (B) as a ward of the other person;
- (C) as a custodian of the other person;
- (D) as a foster parent of the other person; or
- (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D); or
- (7) has a child in common with the other person.

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of one (1) of the persons: **has the meaning set forth in IC 35-41-1-10.6.**

SECTION 5. IC 35-41-1-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.6. (a) An individual is a "family or household member" of another person if the individual:

- (1) is a current or former spouse of the other person;
- (2) is dating or has dated the other person;
- (3) is or was engaged in a sexual relationship with the other person;
- (4) is related by blood or adoption to the other person;
- (5) is or was related by marriage to the other person;
- (6) has or previously had an established legal relationship:
 - (A) as a guardian of the other person;
 - (B) as a ward of the other person;
 - (C) as a custodian of the other person;
 - (D) as a foster parent of the other person; or
 - (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D); or
- (7) has a child in common with the other person;
- (8) lives or formerly lived in the same household as the other person; or**
- (9) is the present spouse of a former spouse of the other person.**

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7), or **(a)(8)** applies if the individual is a minor child of one (1) of the persons.

SECTION 6. IC 35-42-2-1.3, AS AMENDED BY P.L.129-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) A person who knowingly or intentionally touches an individual who **is a family or household member of the person**

- (1) is or was a spouse of the other person;
- (2) is or was living as if a spouse of the other person as provided

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1 in subsection (c); or
 2 (3) has a child in common with the other person;
 3 in a rude, insolent, or angry manner that results in bodily injury to the
 4 person described in subdivision (1); (2); or (3) **individual who is a**
 5 **family or household member of the person** commits domestic
 6 battery, a Class A misdemeanor.

7 (b) However, the offense under subsection (a) is a Class D felony if
 8 the person who committed the offense:

9 (1) has a previous, unrelated conviction:

10 (A) under this section (or IC 35-42-2-1(a)(2)(E) before its
 11 repeal); or

12 (B) in any other jurisdiction, including a military court, in
 13 which the elements of the crime for which the conviction was
 14 entered are substantially similar to the elements described in
 15 this section; or

16 (2) committed the offense in the physical presence of a child less
 17 than sixteen (16) years of age, knowing that the child was present
 18 and might be able to see or hear the offense.

19 (c) ~~In considering whether a person is or was living as a spouse of~~
 20 ~~another individual in subsection (a)(2); the court shall review the~~
 21 ~~following:~~

22 (1) ~~the duration of the relationship;~~

23 (2) ~~the frequency of contact;~~

24 (3) ~~the financial interdependence;~~

25 (4) ~~whether the two (2) individuals are raising children together;~~

26 (5) ~~whether the two (2) individuals have engaged in tasks directed~~
 27 ~~toward maintaining a common household; and~~

28 (6) ~~other factors the court considers relevant.~~

29 **SECTION 7. [EFFECTIVE JULY 1, 2007] IC 35-42-2-1.3, as**
 30 **amended by this act, applies only to crimes committed after June**
 31 **30, 2007.**

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SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 65 and that Senator Hershman be substituted therefor.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill No. 65, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal, and Civil Matters.

(Reference is to SB 65 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 65, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 65 as printed February 7, 2007.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 1.

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